

### REMARKS

In reply to the Office Action of November 5, 2008, Applicant submits the following remarks. No claims have been amended, canceled, or added in this reply. Accordingly, claims 1-9 and 12-18 are pending, with claims 1 and 17 in independent form.

Applicant thanks the Examiner for indicating that claims 1-9, 12-16, and 18 are allowed.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kenny et al. (U.S. Patent No. 7,000,684, "Kenny") in view of Colella et al. (U.S. Patent No. 5,783,316, "Colella"). Without conceding the merits of the proposed combination of Kenny and Colella, Applicant does not believe that Kenny is prior art to the present application, and therefore the proposed rejection under 35 U.S.C. § 103(a) should be withdrawn.

The present application is a U.S. National Stage application of International Application No. PCT/DE2003/001906, and was filed on January 27, 2005. International Application No. PCT/DE2003/001906 claims priority to German Patent Application No. DE 102 34 704.2, which was filed on July 30, 2002. The official Filing Receipt for the present application acknowledges these priority claims by Applicant.

Based on the 371 Acceptance Letter dated March 20, 2006, Applicant assumes that a certified copy of German Patent Application No. DE 102 34 704.2, as required under MPEP § 1893.03(c), has been received by the Office and made available to the Examiner. Applicant has checked Public PAIR and notes that a certified copy of the priority document is available electronically in the application's Image File Wrapper. If Applicant's understanding is not correct and a certified copy of the priority document has not been made available to the Examiner, Applicant respectfully requests notification to this effect, at which time Applicant will be pleased to submit another certified copy for the Examiner's consideration.

Applicant has enclosed with this reply a certified translation of DE 102 34 704.2, in accordance with 35 U.S.C. § 365. Based on this translation, it is Applicant's belief that the subject matter of claim 17 is fully supported by the disclosure of the priority document. Thus,

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Applicant believes that claim 17 is entitled to a priority date under 35 U.S.C. § 365 of July 30, 2002.

Kenny was filed on October 6, 2003, and is a continuation of U.S. Patent Application No. 10/680,584, which was filed on May 16, 2003. Thus, Kenny's effective filing date is *after* the earliest priority date of claim 17. Accordingly, Applicant believes that Kenny is not prior art to claim 17 under 35 U.S.C. §§ 102 and/or 103, and respectfully requests reconsideration and withdrawal of the rejection of claim 17 under 35 U.S.C. § 103(a).

In view of the foregoing, Applicant asks that the application be allowed.

No fees are believed to be due. Please apply any charges or credits to Deposit Account 06-1050, referencing Attorney Docket No. 12406-0109US1.

Respectfully submitted,

Date: \_\_\_\_\_

2/5/09



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